

111TH CONGRESS
1ST SESSION

S. 1416

To require the redesignation of North Korea as a state sponsor of terrorism, to impose sanctions with respect to North Korea, to require reports on the status of North Korea’s nuclear weapons program and counterproliferation efforts, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 8, 2009

Mr. BROWNBACK (for himself, Mr. KYL, and Mr. GREGG) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To require the redesignation of North Korea as a state sponsor of terrorism, to impose sanctions with respect to North Korea, to require reports on the status of North Korea’s nuclear weapons program and counterproliferation efforts, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “North Korea Accountability Act of 2009”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Sense of Congress with respect to United States policy toward North Korea.
- Sec. 3. Designation of North Korea as state sponsor of terrorism.
- Sec. 4. Prohibition on financial transactions with certain foreign banks.
- Sec. 5. Military-to-military exchanges with Japan and South Korea.
- Sec. 6. Report on financial transactions with the Government of North Korea and trade in precious metals mined in North Korea.
- Sec. 7. Report on the nuclear weapons program of North Korea.
- Sec. 8. Reports on counterproliferation efforts.
- Sec. 9. Reports on implementation of United Nations Security Council Resolutions.
- Sec. 10. Report on refugees from North Korea admitted to the United States.
- Sec. 11. Sense of Congress and GAO report on implementation of North Korean Human Rights Act.
- Sec. 12. Statement of policy on human rights in North Korea.
- Sec. 13. Sense of Congress on the role of the Special Envoy for North Korean Human rights in negotiations with North Korea.
- Sec. 14. Authorization of appropriations for deployment of ground-based missile interceptors.
- Sec. 15. Authorization of appropriations for development of variant of F-22 advanced tactical fighter for sale to the Government of Japan.
- Sec. 16. Authorization of appropriations for radio broadcasting to North Korea.
- Sec. 17. Reallocation of appropriations within the Department of State.

1 SEC. 2. SENSE OF CONGRESS WITH RESPECT TO UNITED
2 STATES POLICY TOWARD NORTH KOREA.

3 It is the sense of Congress that—

4 (1) the Government of North Korea poses a
5 compelling risk to the security of Northeast Asia
6 and to the interests of the United States throughout
7 the world;

8 (2) the enslavement of the people of North
9 Korea by the Government of North Korea is an af-
10 front to humanity and demonstrates that the Gov-
11 ernment of North Korea is dangerous to its neigh-
12 bors and the world;

13 (3) the Six-Party Talks and related multilateral
14 and bilateral negotiations with North Korea have

1 failed to achieve the stated goal of denuclearizing
2 the Korean Peninsula;

3 (4) it should be the policy of the United
4 States—

5 (A) to counter the threats posed by the
6 Government of North Korea; and

7 (B) to promote the emergence of a demo-
8 cratic government for the people of North
9 Korea; and

10 (5) the Governments of Japan, South Korea,
11 and the United States maintain a mutually bene-
12 ficial security guarantee under which an attack on
13 any of those countries will trigger a response that is
14 backed up by the complete range of military options
15 available to all 3 countries.

16 **SEC. 3. DESIGNATION OF NORTH KOREA AS STATE SPON-**
17 **SOR OF TERRORISM.**

18 (a) IN GENERAL.—Except as provided under sub-
19 section (b), the Secretary of State shall designate North
20 Korea as a country that has repeatedly provided support
21 for acts of international terrorism for purposes of—

22 (1) section 6(j) of the Export Administration
23 Act of 1979 (50 U.S.C. App. 2405(j)) (as continued
24 in effect pursuant to the International Emergency
25 Economic Powers Act (50 U.S.C. 1701 et seq.));

1 (2) section 40 of the Arms Export Control Act
2 (22 U.S.C. 2780); and

3 (3) section 620A of the Foreign Assistance Act
4 of 1961 (22 U.S.C. 2371).

5 (b) WAIVER.—The President may waive the require-
6 ment to make the designation under subsection (a) upon
7 certifying to Congress that the Government of North
8 Korea—

9 (1) has provided a full, complete, and accurate
10 disclosure of all aspects of its nuclear program, in-
11 cluding its uranium enrichment capabilities;

12 (2)(A) has not, in the previous 5 years, engaged
13 in the illegal transfer of missile or nuclear tech-
14 nology, particularly to the governments of Iran,
15 Syria, or any other country the government of which
16 the Secretary of State has determined, for purposes
17 of the provisions of law described in paragraphs (1)
18 through (3) of subsection (a) or other provision of
19 law, is a government that has repeatedly provided
20 support for international acts of terrorism; and

21 (B) has fully disclosed all proliferation activities
22 in the past 10 years that, if occurring today, would
23 violate United Nations Security Council Resolution
24 1718 (2006);

1 (3) has not, in the previous 5 years, engaged in
2 training in combat operations or tunneling, or har-
3 boring, supplying, financing, or supporting in any
4 way—

5 (A) Hamas, Hezbollah, the Japanese Red
6 Army, the Liberation Tigers of Tamil Eelam, or
7 any member of such organizations;

8 (B) any organization designated by the
9 Secretary of State as a foreign terrorist organi-
10 zation in accordance with section 219(a) of the
11 Immigration and Nationality Act (8 U.S.C.
12 1189(a)); and

13 (C) any person included on the annex to
14 Executive Order 13224 (September 21, 2001)
15 and any other person identified under section 1
16 of that Executive Order whose property and in-
17 terests are blocked by that section (commonly
18 known as a “specially designated global ter-
19 rorist”);

20 (4) has—

21 (A) released United States citizens Euna
22 Lee and Laura Ling, who were working as jour-
23 nalists reporting on refugees on the border be-
24 tween North Korea and the People’s Republic
25 of China when they were detained by North Ko-

1 rean guards on March 17, 2009, and sentenced
2 to 12 years of hard labor on June 8, 2009; and

3 (B) returned the last remains of United
4 States permanent resident, Reverend Kim
5 Dong-shik, to his United States citizen widow
6 and family;

7 (5) has released the nationals of Japan recog-
8 nized as abduction victims by the Government of
9 Japan as well as abduction victims recognized by the
10 Government of South Korea;

11 (6) has released an estimated 600 surviving
12 South Korean prisoners of war, and any other sur-
13 viving prisoners of war from the Korean War, who
14 have been held in North Korea against their will and
15 in violation of the Armistice Agreement since hos-
16 tilities ended in July 1953;

17 (7) has opened the North Korean penal system,
18 including the gulag of concentration camps holding
19 an estimated 200,000 political and religious pris-
20 oners, to unrestricted and regular visits by rep-
21 resentatives of the International Committee of the
22 Red Cross;

23 (8) has made provision for unrestricted and
24 regular access by representatives of the United Na-
25 tional High Commissioner for Refugees to refugees

1 forcibly repatriated to North Korea to determine
2 their general health and welfare; and

3 (9) has ceased threatening to commit terrorist
4 acts in its public statements and state-owned media
5 and has issued public assurances that the Govern-
6 ment of North Korea will not sponsor or commit ter-
7 rorism again.

8 **SEC. 4. PROHIBITION ON FINANCIAL TRANSACTIONS WITH**
9 **CERTAIN FOREIGN BANKS.**

10 (a) IN GENERAL.—Notwithstanding any other provi-
11 sion of law and subject to subsection (c), beginning on
12 the date that is 90 days after the date of the enactment
13 of this Act, the Secretary of the Treasury shall prohibit
14 any financial institution from engaging in any financial
15 transaction with a foreign bank that the Secretary deter-
16 mines is engaging in a financial transaction with the Gov-
17 ernment of North Korea or a person described in sub-
18 section (b).

19 (b) PERSONS DESCRIBED.—A person described in
20 this subsection is a person the Secretary of the Treasury,
21 in consultation with the Secretary of State and the Direc-
22 tor of National Intelligence, determines to be—

23 (1) a senior official of the Government of North
24 Korea or of the military of North Korea; or

1 (2) acting as an agent of the Government of
2 North Korea.

3 (c) NOTICE TO FINANCIAL INSTITUTIONS.—The Sec-
4 retary of the Treasury may not apply the prohibition
5 under subsection (a) to a financial institution—

6 (1) until the date that is 30 days after the date
7 on which the Secretary notifies the institution that
8 the Secretary intends to apply the prohibition under
9 subsection (a); or

10 (2) if the institution terminates the transaction
11 that resulted in the notification under paragraph (1)
12 and freezes any funds associated with that trans-
13 action before the 30th day after receiving the notifi-
14 cation.

15 (d) WAIVER.—

16 (1) IN GENERAL.—The Secretary of the Treas-
17 ury may waive the application of the prohibition
18 under subsection (a) with respect to a financial insti-
19 tution for a period of 1 year if the Secretary notifies
20 Congress of the waiver not less than 30 days before
21 the waiver takes effect.

22 (2) RENEWAL OF WAIVER.—The Secretary may
23 renew a waiver granted for a financial institution
24 under paragraph (1) annually.

25 (e) DEFINITIONS.—In this section:

1 (1) FINANCIAL INSTITUTION.—The term “fi-
 2 nancial institution” has the meaning given that term
 3 in section 5312(a)(2)(6) of title 31, United States
 4 Code.

5 (2) FINANCIAL TRANSACTION.—The term “fi-
 6 nancial transaction” has the meaning given that
 7 term in section 1956(c)(4) of title 18, United States
 8 Code.

9 (3) FOREIGN BANK.—The term “foreign bank”
 10 has the meaning given that term in section 1(7) of
 11 the International Banking Act of 1978 (12 U.S.C.
 12 3101(7)).

13 **SEC. 5. MILITARY-TO-MILITARY EXCHANGES WITH JAPAN**
 14 **AND SOUTH KOREA.**

15 (a) IN GENERAL.—The President shall take nec-
 16 essary steps to strengthen military cooperation with Japan
 17 and South Korea, including—

18 (1) improving joint training to counter security
 19 threats posed by the Government of North Korea;
 20 and

21 (2) selling advanced United States military
 22 technology to Japan, including the Aegis radar sys-
 23 tems, the Patriot Advanced Capability–3 and Ter-
 24 minal High Altitude Area Defense missile defense

1 systems, and a variant of the F-22 advanced tac-
 2 tical fighter appropriate for exportation.

3 (b) AUTHORIZATION OF APPROPRIATIONS FOR
 4 INTERNATIONAL COOPERATION WITH RESPECT TO MIS-
 5 SILE DEFENSE.—There are authorized to be appropriated
 6 to the Missile Defense Agency \$10,000,000 for inter-
 7 national cooperation with Japan and South Korea on
 8 boost phase missile defense programs, including the devel-
 9 opment of the Airborne Laser.

10 **SEC. 6. REPORT ON FINANCIAL TRANSACTIONS WITH THE**
 11 **GOVERNMENT OF NORTH KOREA AND TRADE**
 12 **IN PRECIOUS METALS MINED IN NORTH**
 13 **KOREA.**

14 (a) IN GENERAL.—Not later than 1 year after the
 15 date of the enactment of this Act, and annually thereafter
 16 for 5 years, the Secretary of the Treasury shall submit
 17 to Congress a report listing each person for which the Sec-
 18 retary has credible information that the person—

19 (1)(A) is engaging in a financial transaction in
 20 any currency with the Government of North Korea
 21 or a person described in section 4(b); or

22 (B) has engaged in such a transaction in the
 23 preceding 1-year period; or

24 (2)(A) is trading in precious metals mined or
 25 otherwise produced in North Korea;

1 (B) transfers funds or uses an online payment
2 service relating to such metals; or

3 (C) has traded in such metals, engaged in such
4 a transfer, or used such a service in the preceding
5 1-year period.

6 (b) PERSON DEFINED.—For purposes of this section,
7 the term “person” includes the government of a country
8 or subdivision thereof.

9 **SEC. 7. REPORT ON THE NUCLEAR WEAPONS PROGRAM OF**
10 **NORTH KOREA.**

11 (a) IN GENERAL.—Not later than 90 days after the
12 date of the enactment of this Act, and annually thereafter
13 for 5 years, the Secretary of Defense, in consultation with
14 the Secretary of State and the Director of National Intel-
15 ligence, shall submit to Congress a report on the nuclear
16 weapons program of the Government of North Korea.

17 (b) CONTENTS.—The report required under sub-
18 section (a) shall include the following:

19 (1) An assessment of the ability of the United
20 States Armed Forces to intercept and destroy a bal-
21 listic missile launched from North Korea, including
22 a description of any deficiencies that need to be ad-
23 dressed.

24 (2) A description of advancements in the nu-
25 clear weapons and ballistic missile programs of the

1 Government of North Korea, including estimates of
2 inventory, range, and capabilities expected to be de-
3 veloped within 5 years after the report.

4 (3) An assessment of the proliferation of bal-
5 listic missile technology from North Korea.

6 (4) An assessment of the status of the uranium
7 enrichment program in North Korea.

8 (5) An assessment of the status of the
9 Yongbyon nuclear facilities, and other nuclear facili-
10 ties in North Korea, including—

11 (A) the extent of efforts made to disable
12 such facilities; and

13 (B) an estimate of the time in which those
14 efforts could be reversed.

15 **SEC. 8. REPORTS ON COUNTERPROLIFERATION EFFORTS.**

16 (a) REPORT ON INTERDICTION AUTHORITY OF
17 UNITED STATES ARMED FORCES.—Not later than 90
18 days after the date of the enactment of this Act, the Sec-
19 retary of Defense shall submit to Congress a report de-
20 scribing the authority of the United States Armed Forces
21 to interdict or seize aircraft and vessels originating in
22 North Korea and found in international airspace or waters
23 that reasonably are suspected of carrying any nuclear,
24 chemical, biological, conventional missile-related, or space
25 system-related technology, equipment, materials, or goods

1 in violation of United Nations Security Council Resolution
 2 1695 (2006), United Nations Security Council Resolution
 3 1718 (2006), or United Nations Security Council Resolu-
 4 tion 1874 (2009).

5 (b) REPORT ON NONPROLIFERATION EFFORTS OF
 6 THE UNITED STATES WITH RESPECT TO NORTH
 7 KOREA.—Not later than 90 days after the date of the en-
 8 actment of this Act, the President shall submit to Con-
 9 gress a report describing the actions taken by the United
 10 States in response to the transfer of nuclear technology
 11 by North Korea to Syria and the efforts taken to ensure
 12 that North Korea ceases to engage in such transfers.

13 **SEC. 9. REPORTS ON IMPLEMENTATION OF UNITED NA-**
 14 **TIONS SECURITY COUNCIL RESOLUTIONS.**

15 (a) REPORT ON IMPLEMENTATION OF UNITED NA-
 16 TIONS SECURITY COUNCIL RESOLUTIONS.—Not later
 17 than 90 days after the date of the enactment of this Act,
 18 the President shall submit to Congress a report—

19 (1) assessing the status of the implementation
 20 of United Nations Security Council Resolution 1695
 21 (2006), United Nations Security Council Resolution
 22 1718 (2006), and United Nations Security Council
 23 Resolution 1874 (2009); and

24 (2) containing a detailed list of actions taken by
 25 the United States to implement those resolutions

1 and to encourage other countries to take actions to
2 implement the resolutions.

3 (b) REPORT ON IMPLEMENTATION OF UNITED NA-
4 TIONS SECURITY COUNCIL RESOLUTIONS BY THE PEO-
5 PLE'S REPUBLIC OF CHINA.—Not later than 90 days after
6 the date of the enactment of this Act, the Director of Na-
7 tional Intelligence shall submit to Congress a report—

8 (1) assessing the compliance of the Government
9 of the People's Republic of China with the require-
10 ments imposed under United Nations Security Coun-
11 cil Resolution 1695 (2006), United Nations Security
12 Council Resolution 1718 (2006), and United Na-
13 tions Security Council Resolution 1874 (2009); and

14 (2) describing any assistance provided by the
15 Government of the People's Republic of China to
16 any entity in North Korea and the amount of any
17 such assistance.

18 **SEC. 10. REPORT ON REFUGEES FROM NORTH KOREA AD-**
19 **MITTED TO THE UNITED STATES.**

20 (a) IN GENERAL.—Not later than 30 days after the
21 date of the enactment of this Act, and every 30 days there-
22 after for 5 years, the Secretary of State shall submit to
23 Congress a report on the number of aliens who are citizens
24 or nationals of North Korea that were admitted to the
25 United States as refugees under section 207 of the Immi-

1 gration and Nationality Act (8 U.S.C. 1157) during the
2 preceding 30 days.

3 (b) ENFORCEMENT OF REPORTING REQUIRE-
4 MENT.—For each month in which the Secretary of State
5 does not submit the report required by subsection (a) to
6 Congress before the 15th day after that report is due,
7 \$250,000 of amounts previously appropriated to the Bu-
8 reau of Population, Refugees, and Migration of the De-
9 partment of State and available for obligation shall be re-
10 scinded.

11 **SEC. 11. SENSE OF CONGRESS AND GAO REPORT ON IMPLE-**
12 **MENTATION OF NORTH KOREAN HUMAN**
13 **RIGHTS ACT.**

14 (a) SENSE OF CONGRESS.—It is the sense of Con-
15 gress that—

16 (1) the United States has not adequately imple-
17 mented the North Korean Human Rights Act of
18 2004 (22 U.S.C. 7801 et seq.), as amended by the
19 North Korean Human Rights Reauthorization Act of
20 2008 (Public Law 110–346; 122 Stat. 3939); and

21 (2) the President should expand efforts to pro-
22 mote a transition to democracy in North Korea.

23 (b) GAO REPORT.—

24 (1) IN GENERAL.—Not later than 90 days after
25 the date of the enactment of this Act, the Comp-

1 troller General of the United States shall submit to
2 Congress a report on the implementation by the Sec-
3 retary of State of the North Korean Human Rights
4 Act of 2004 (22 U.S.C. 7801 et seq.), as amended
5 by the North Korean Human Rights Reauthoriza-
6 tion Act of 2008 (Public Law 110–346; 122 Stat.
7 3939).

8 (2) CONTENTS.—The report required under
9 paragraph (1) shall include the following, with re-
10 spect to each of the fiscal years 2005 through 2009:

11 (A) A description of the extent to which
12 the Secretary of State has implemented section
13 203 of the North Korean Human Rights Act of
14 2004 (22 U.S.C. 7833) (relating to assistance
15 provided outside of North Korea), including—

16 (i) an assessment of the effectiveness
17 of the implementation of that section with
18 respect to the purposes described in section
19 4 of that Act (22 U.S.C. 7802); and

20 (ii) if the Secretary has not requested
21 funds to provide assistance under such sec-
22 tion 203, an assessment of any other funds
23 used by the Secretary to provide such as-
24 sistance.

1 (B) An evaluation of the effectiveness of
2 the implementation of title III of that Act (22
3 U.S.C. 7841 et seq.) (relating to protecting
4 North Korean refugees) that—

5 (i) considers the scope of the problem
6 posed by refugees from North Korea, with
7 particular consideration of—

8 (I) the policies expressed in sec-
9 tion 304 of that Act (22 U.S.C.
10 7844); and

11 (II) the information contained in
12 reports submitted under section 305
13 of that Act (22 U.S.C. 7845); and

14 (ii) includes an assessment of the ex-
15 tent to which the Secretary has facilitated,
16 pursuant to section 303 of that Act (22
17 U.S.C. 7843), the submission of applica-
18 tions by citizens or nationals of North
19 Korea for admission to the United States
20 as refugees under section 207 of the Immi-
21 gration and Nationality Act (8 U.S.C.
22 1157).

1 **SEC. 12. STATEMENT OF POLICY ON HUMAN RIGHTS IN**
 2 **NORTH KOREA.**

3 Section 101 of the North Korean Human Rights Act
 4 of 2004 (22 U.S.C. 7811) is amended—

5 (1) in the section heading, by striking “**SENSE**
 6 **OF CONGRESS**” and inserting “**STATEMENT OF**
 7 **POLICY**”; and

8 (2) by striking “It is the sense of Congress”
 9 and inserting “It is the policy of the United States”.

10 **SEC. 13. SENSE OF CONGRESS ON THE ROLE OF THE SPE-**
 11 **CIAL ENVOY FOR NORTH KOREAN HUMAN**
 12 **RIGHTS IN NEGOTIATIONS WITH NORTH**
 13 **KOREA.**

14 It is the sense of Congress that the Special Envoy
 15 for Human Rights in North Korea should be present at
 16 all negotiating sessions between the United States Govern-
 17 ment and the Government of North Korea.

18 **SEC. 14. AUTHORIZATION OF APPROPRIATIONS FOR DE-**
 19 **PLOYMENT OF GROUND-BASED MISSILE**
 20 **INTERCEPTORS.**

21 There are authorized to be appropriated
 22 \$160,000,000 for fiscal year 2010 for the Department of
 23 Defense to complete the deployment of 44 ground-based
 24 missile interceptors at Fort Greely, Alaska. Such amount
 25 is in addition to any other amounts authorized to be ap-

1 appropriated for fiscal year 2010 for the Department of De-
2 fense for such purpose.

3 **SEC. 15. AUTHORIZATION OF APPROPRIATIONS FOR DE-**
4 **VELOPMENT OF VARIANT OF F-22 ADVANCED**
5 **TACTICAL FIGHTER FOR SALE TO THE GOV-**
6 **ERNMENT OF JAPAN.**

7 (a) IN GENERAL.—There are authorized to be appro-
8 priated for fiscal year 2010 to the Secretary of Defense
9 for the Air Force for aircraft such sums as may be nec-
10 essary to develop a variant of the F-22 advanced tactical
11 fighter appropriate for sale to the Government of Japan.

12 (b) REPEAL OF PROHIBITION ON FUNDING FOR THE
13 SALE OF F-22 FIGHTERS.—Section 8059 of the Consoli-
14 dated Security, Disaster Assistance, and Continuing Ap-
15 propriations Act, 2009 (Public Law 110–329; 122 Stat.
16 3634) is repealed.

17 **SEC. 16. AUTHORIZATION OF APPROPRIATIONS FOR RADIO**
18 **BROADCASTING TO NORTH KOREA.**

19 (a) AUTHORIZATION OF APPROPRIATIONS FOR RADIO
20 FREE ASIA.—There are authorized to be appropriated
21 \$50,000,000 to the Broadcasting Board of Governors for
22 Radio Free Asia for each of the fiscal years 2010 through
23 2014—

1 (1) to expand radio broadcasting to North
2 Korea and to expand the content of such broad-
3 casting; and

4 (2) to operate an airborne radio transmission
5 platform in international airspace near North Korea.

6 (b) **AUTHORIZATION OF APPROPRIATIONS FOR NA-**
7 **TIONAL ENDOWMENT FOR DEMOCRACY.**—There are au-
8 thorized to be appropriated \$25,000,000 to the National
9 Endowment for Democracy for each of the fiscal years
10 2010 through 2014 to support the development of non-
11 governmental civilian broadcasts and information to be
12 broadcast to North Korea.

13 **SEC. 17. REALLOCATION OF APPROPRIATIONS WITHIN THE**
14 **DEPARTMENT OF STATE.**

15 Not later than 30 days after the date of the enact-
16 ment of this Act, the Secretary of State shall reallocate
17 \$10,000,000 appropriated for the Bureau of East Asian
18 and Pacific Affairs to the Bureau of Democracy, Human
19 Rights, and Labor, to be expended on programs and ac-
20 tivities designed to advance human rights for the people
21 of North Korea.

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